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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 August 1993, at 3 p.m.

Chairman: Mr. YIMER

later: Mr. AL-KHASAWNEH

later: Mrs. FORERO-UCROS

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Tribute to the memory of Mrs. Bautista

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GE.93-14612 (E)

The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1993/12, 13, 14 and 37; E/CN.4/Sub.2/1993/NGO/3 and 5)

1. Mr. PATTEN (National Aboriginal and Islander Legal Services Secretariat - NAILSS) said that indigenous peoples were concerned not only by the violation of their individual, civil and political rights, but also by the destruction of the very basis of their societies. NAILSS strongly supported the conclusion that human rights were universal, indivisible and interdependent and therefore considered that, without effective control over their territories and resources, their recognition as indigenous peoples would be worthless. As conceived by certain Western economists, development had often signified assimilation or even genocide for the indigenous peoples. It was thus imperative for those peoples to be able to control the development of their lands, resources and societies. Consequently, the Sub-Commission should recommend that the Working Group on the Right to Development include in its agenda an item entitled "Indigenous perspective on sustainable development".

2. In that context, while the indigenous peoples recognized the importance of the results of the Rio Earth Summit, particularly the affirmation of the principle that economic development and respect for the environment must go hand in hand, they were bitterly disappointed by the totally inadequate references to indigenous rights in the Rio Declaration and by the vague language with which indigenous issues were addressed in Agenda 21. All United Nations bodies should ensure that the promotion of economic, social and cultural rights was linked with sustainable development.

3. The lessons that could be drawn from the experience of the indigenous peoples could be helpful in establishing a more balanced and equitable society more respectful of the natural environment and human rights. The outcome of the work of the Working Group on Indigenous Peoples would reflect the capacity of members of the non-indigenous community to effectively articulate positions on indigenous rights. In that connection, NAILSS and the Haudenosaunee Nation would like the draft declaration on the rights of indigenous peoples to be amended so as to bring out more forcefully the right of indigenous peoples to control their land and cultural heritage. As was demonstrated by the racist campaign that had been launched in Australia following the Supreme Court's decision in the Mabo case, indigenous peoples experienced the greatest difficulties in ensuring respect for their rights. If the declaration on the rights of indigenous peoples which was finally adopted did not truly reflect indigenous aspirations, values and principles, it might then be invoked by States to justify their violations of indigenous rights. Accordingly, the Working Group on Indigenous Populations should continue, at the current session of the Sub-Commission, to consider the latest version of the draft declaration and subsequently disseminate the revised text widely, particularly among the indigenous communities, which could then convey their views. It was

essential that, before putting the finishing touches to the draft declaration, the Working Group should be publicly informed by indigenous representatives of the views of their communities.

4. Mr. Al-Khasawneh took the Chair.

5. Mrs. KEMNELOOM DJIRAIBE (African Association of Education for Development - AFASED) said that AFASED was greatly concerned by the situation in the African continent. In particular, it deplored the fratricidal war, due to political, religious and ethnic intolerance, that was devastating the Sudan and the religious intolerance that was sweeping as far as Algeria, to a point where intellectuals were being persecuted and murdered. AFASED urged all Governments that were encouraging religious intolerance to refocus their efforts on protecting and promoting human rights.

6. In Liberia, it was to be hoped that the peace agreement just signed by the warring parties at Cotonou would enable the country to leave barbarism behind and pursue economic and social development. In Angola and Somalia, Africans were continuing to die as the victims of power struggles. Yet the only struggle that African leaders should be conducting, with help from the international community, was the struggle for economic, social and cultural development.

7. In South Africa, the Government should, firstly, disarm the 2.5 million whites holding firearms with which they could kill blacks as they pleased and, secondly, end the police infiltration of African communities so as to put an end to internecine slaughter. In Equatorial Guinea, pursuant to recommendations made by the Commission on Human Rights, the Government should stop persecuting opponents. In Zaire and Togo, the international community should help the military to restore civilian rule. In the Congo and the Central African Republic, it was to be hoped that the democratic process that had been initiated would continue. In Ethiopia, arbitrary arrests and torture went on uninterrupted. In Mauritania, blacks had been the victims of an unavowed policy of apartheid since 1960. Since 1989, the Government had even been conducting a new ethnic cleansing policy which had resulted in a series of massacres and the deportation of more than 200,000 blacks to Senegal and Mali.

8. In Chad, the overthrow of Hissen Habré had not ended the serious human rights violations which the Chadian population had suffered since independence. The praetorian guard of President Deby had taken the population hostage. Since December 1990, about 1,000 persons had been the victims of extrajudicial executions, including in particular Mr. Joseph Behidi, Vice-President of the Chadian League for Human Rights, and Mr. M'Bailaou Miambe, President of the General Administrative Workers' Union, assassinated on 16 February 1992 and 26 June 1993 respectively. In Logone Oriental, in the southern part of the country, 246 persons had been killed by the security forces and a further 45 had gone missing between January and April 1993. Women had been raped and children burned. In the village of Khou-Mouabe, on 5 April 1993, 135 men and youths had been cold-bloodedly shot or had their throats slit by President Deby's forces. At the very moment she was speaking, the population of Chokoyam, in the eastern part of the country, was being massacred by the security forces. According to the

official press, 80 people had been killed and a further 500 wounded during the demonstrations in N'djamena on 8 August 1993. The perpetrators of those crimes were known and enjoyed complete impunity, as did the dictator Hissen Habré, who was living a luxurious life in exile. In conclusion, she called upon Governments which had close relations with Chad and on the international community to do their utmost to encourage the establishment of the rule of law and respect for human rights and fundamental freedoms in that country. She also called upon the Sub-Commission to adopt a resolution condemning human rights violations in Chad.

9. Mr. GUISSE said that, even though violations of human rights should not cause all the ills - disease, poverty and hunger - which threatened mankind to be forgotten, they were increasingly serious, massive and pernicious and were ever-recurring. The situation of migrant workers, in particular, was most alarming. They lived in deplorable conditions and were exposed to racism stirred up by certain political parties with worrying ideologies. Discrimination based on religion was also at the origin of many conflicts and massacres, as illustrated by the very tragic situation of Muslims in Bosnia and Herzegovina, who were the victims of cleansing inspired primarily by religious considerations. People suffering from AIDS were also the victims of increasingly inhuman discriminatory practices.

10. The situation was particularly disturbing in Africa, where African leaders had been unable to meet the expectations created by independence, showing themselves more concerned to cling on to power than to serve the interests of their peoples and incurring responsibility for the most serious conceivable violations of human rights. Today there was much talk of democratization and a multi-party system, yet many political leaders had not understood that parties were not exclusively means of acceding to power but must primarily be a training school enabling citizens to participate in the overall task of developing society. Some rulers stopped at nothing to keep themselves in power. In certain countries, arbitrary arrests and summary executions were commonplace occurrences directed primarily against the vital forces of the nation, whose development was thus seriously hampered. Many African Governments were principally concerned to train and equip an army of repression, to the detriment of health and education. In conclusion, he called for an appeal to be made to national rulers to serve the interests of their peoples and combat poverty, hunger, disease and ignorance.

11. Mr. SYAHBUDDIN (Liberation) said that since 1976, when the Indonesian province of Aceh had proclaimed its independence with the help of the National Liberation Front, the Indonesian Government had been resorting to all means to achieve its aims - unfair trials, torture, extrajudicial killings, "disappearances" and rape. As emphasized in a recent Amnesty International report, "In Aceh the Indonesian security forces can murder or torture with impunity". They were now attacking not only independence activists but also members of their families. For example, the Indonesian army had killed Mr. Geusjik Umar Ibrahim, one of the leaders of the Aceh/Sumatra National Liberation Front, as well as his four sons, one of his brothers and several of his relatives. According to an Agence France Press report of 1 October 1992, the local Indonesian authorities had admitted that some 15,000 Aceh civilians had been murdered by the Indonesian army between 1989 and 1992. According to Amnesty International, no action had been taken against any member of the

security forces which had killed or tortured unarmed civilians at Aceh. There was good reason to believe that 40 of the 160 political refugees who had been turned back from Malaysia to Aceh had "disappeared".

12. To understand the origin of the conflict between the people of Aceh and the Government of Indonesia, one needed to know that that people considered Indonesia as an artificial and fabricated country which relied on brute force to maintain its unity. The conflict between that people and Indonesia was not a civil war but a neocolonial war. The province of Aceh had been made part of Indonesia without the population being consulted in any way. In conclusion, he called on the Sub-Commission and the Commission on Human Rights to give the same attention to the province of Aceh as to East Timor and expressed the hope that a special rapporteur should be sent to Aceh to investigate the atrocities committed by the Indonesian forces.

13. Mr. VITTORI (Pax Christi International) deplored the plight of the populations subjected to Israeli occupation, which was a direct consequence of violations of the fundamental norms of international law concerning human rights. He referred in particular to the fate of the 415 Palestinians who had been collectively expelled in December 1992, an incident which could have been avoided if the Fourth Geneva Convention had been respected. He also mentioned the catastrophic social consequences of the sealing-off of Gaza and the West Bank. According to an International Labour Office report, preventing 100,000 workers from working in Israel meant a daily loss of income of $2.5 million for Gaza and the West Bank, to which was added the losses of farmers and market gardeners who could not export their produce and social security losses. In that connection, he wished to pay tribute to the work of the Israeli organization Kav la'oved.

14. He drew attention to the bombings in southern Lebanon, whose proclaimed purpose was to sow terror so as to force the inhabitants to leave. Was it permissible to hope that the State of Israel and its population would spontaneously help Lebanon to reconstruct what had been destroyed and compensate the innocent victims, a step which might breathe new life into the peace talks? He also denounced the persistent human rights violations in Iran. Together with some 15 other non-governmental organizations (NGOs), his organization had signed a statement denouncing, in particular, the harassment and discrimination to which women were subjected. No country could lay claim to the respect of the international community if it continued to impose on its people a political tyranny such as that in Iran.

15. Indonesia also persistently ignored international norms and the decisions of the Security Council concerning Timor. Pax Christi drew the Sub-Commission's attention to the Amnesty International report of February 1993 and the Asia Watch report of April 1993 and noted with satisfaction that the United States had just come out against a sale of military aircraft to Indonesia by Jordan. He welcomed the agreement signed in Haiti with a view to the restoration of democracy and the return of the elected President, Jean-Baptiste Aristide, but noted that the dictatorship was continuing. As long as killings, abductions and torture persisted, Pax Christi thought that the existing blockade should be maintained.

16. He was convinced that the ethnic cleansing being practised in the former Yugoslavia would remain a shameful page in contemporary history. He noted the manipulation of the media by the leaders in power, who had thus exacerbated the nationalist sentiments of their peoples, and the fact that the application of ITU rules in favour of a country excluded from the United Nations had silenced a radio that had been broadcasting from outside Yugoslav territorial waters.

17. With regard to Iraq, he wondered what was the real aim of the sanctions imposed in the name of the United Nations. Were they intended to defend human rights or, rather, to protect strategic, political and economic interests? In any event, it was paradoxical for humanitarian organizations to be mobilized to provide relief to the victims of sanctions decided upon by the United Nations.

18. Pax Christi welcomed the initiative of the four Nobel Peace Prize winners in proposing that the United Nations Secretary-General should serve as a mediator between the Sri Lankan Government and the Tamil resistance, but deeply regretted that the Prime Minister of Sri Lanka had opposed that initiative. Lastly, Pax Christi drew the Sub-Commission's attention to the conditions imposed on the people of Bougainville and called for a mission of inquiry to be sent there.

19. Mr. AHMAD (World Muslim Congress) drew the Sub-Commission's attention to the situation in Bosnia and Herzegovina, that Bosnia which had formerly been so beautiful but which was now disfigured and bleeding, as its President Alija Izetbegovic had regretfully remarked in a recent interview. The World Muslim Congress accused Slobodan Milosevic and Franjo Tudjman of having agreed from the very start of the conflict to carve up Bosnia and Herzegovina, thus fulfilling a so-called historic mission. Concentration camps, ethnic cleansing, the systematic use of rape and the various other violations of the rights of Slavic Muslims were merely means to achieve that one goal. Living as they always had done among Serbs and Croats, Muslims could not agree to the partitioning of Bosnia and Herzegovina along ethnic lines. He compared what was happening in Bosnia to the Holocaust, with the additional novelty that the Serbs were systematically practising rape in order to humiliate an entire nation. That psychosexual destruction of those who should bear the next generation of Bosnian Muslims was a particularly brutal form of genocide.

20. Serbia and the Bosnian Serbs were playing a cat-and-mouse game with the United Nations, manipulating the Organization to their advantage. By denying arms to Bosnia, the Security Council had sealed the fate of the Bosnian Muslims. The landlocked statelet that was being envisaged, constituting about 20 per cent of the territory of Bosnia and Herzegovina, would not be viable. The human cost of the population displacements that would be necessary to ensure ethnic and religious purity would be enormous. The creation of such a State was only a tactical measure disguising the real goal of Serbs and Croats, which was the elimination of the Slavic Muslims as a distinct entity. He called upon the Sub-Commission to ponder the causes of so much suffering and the resurgence of cultural and religious rivalries and prejudices. All rights, including human rights, carried corresponding obligations and, in the case of Bosnia and Herzegovina, the international community had utterly failed in its duty.

21. He then invited the Sub-Commission to consider a situation which had failed to attract the attention of the media, namely that of the Indian-occupied part of Kashmir. Demonstrations were taking place at that very moment to protest against the atrocities being committed by the Indian occupation forces. It was reported that, on 7 August, nine civilians had been killed by Indian soldiers. On 6 August, 12 people had been killed and many wounded. On 4 August, at least seven people had been killed by Indian soldiers. On 3 August, Reuters press agency had reported that at least 6 people had been killed and 20 wounded. Young people were particular targets: 128 young men between the ages of 16 and 22 had been arrested on 7 August, and a further 130 the following day. The sufferings of the Kashmiri people flowed from the uncompleted decolonization of that part of southern Asia in 1947. The people of Kashmir demanded the right to self-determination. The Security Council had repeatedly affirmed that the future of the State of Jammu and Kashmir should be decided in a referendum organized under United Nations auspices. He also mentioned Security Council resolution 122 (1957) of 24 January 1957 and recalled that when, on 27 October 1947, the Indian army had illegally occupied Kashmir, India's then Prime Minister, Jawaharlal Nehru, had publicly declared that the occupation - or, as he had put it, the accession of Kashmir to India - was only a temporary measure and that the future of Kashmir would ultimately be decided by the Kashmiri people themselves. Since then, India had done everything possible to consolidate its occupation, insisting that Kashmir was an integral part of its territory. That was a betrayal of the people of Kashmir, who were being denied their sociocultural identity. That people was the victim of religious discrimination, economic deprivation and political repression. All the elections held to date had been rigged, in order to instal non-representative puppet Governments. The repression was brutal: curfews, police raids, searches, molestation of women and deaths in police custody.

22. He referred to a report by the Indian human rights organization, the Committee for Initiative on Kashmir, which, in the course of an investigation of three incidents accounting for over 300 casualties, noted the "savage thirst for blood" of the police forces and denounced the security forces for firing on the crowd at the funeral of an assassinated Kashmiri leader, resulting in 57 deaths. On 6 January 1993, the Indian security forces had reportedly set fire to hundreds of shops and houses, massacring more than 55 people in Sopore. Once again, the Indian authorities had denied the incident, claiming that they had discovered an arms cache belonging to militants, but there was nothing to corroborate that story.

23. The World Muslim Congress called upon the Sub-Commission to add the State of Jammu and Kashmir to the list of territories whose situation merited attention. It also invited the Sub-Commission to appoint a special rapporteur to investigate the situation in that region, and possibly to set up a standing working group on the question. It called upon the Sub-Commission to reaffirm that the right of self-determination was a basic human right and to do its utmost to ensure that the Indian authorities allowed human rights organizations access to the territory of Kashmir. Lastly, it suggested that the Sub-Commission should observe a minute of silence each year in memory of the victims in Bosnia and Kashmir.

24. Mr. GILANI (World Society of Victimology) drew the Sub-Commission's attention to the question of the State of Jammu and Kashmir. That matter, which had been raised in the Security Council for the first time on 6 January 1948, recurred regularly in the reports of NGOs such as Amnesty International, the International Federation of Human Rights, Physicians for Human Rights, Asia Watch and the Jammu and Kashmir Council for Human Rights (JKCHR), as well as in reports by human rights organizations in India.

25. Referring to Security Council resolution 47 (1948) of 21 April 1948 calling upon the Indian authorities to reduce their forces in Kashmir to the minimum, he said that there were currently an estimated 700,000 Indian soldiers in the territory, or 1 for every 10 Kashmiris. The United Nations had failed in its duty and was therefore partly responsible for the sufferings of the people of Kashmir. Kashmir had been isolated from the rest of the world since 25 January 1990, when the Indian NGO JKCHR had informed the Centre for Human Rights in Geneva of the first killings. The Indian authorities had repeatedly refused requests by independent international organizations for permission to visit Kashmir. The reports on violations of human rights, some of which had been written by high-ranking Indian personalities or Indian human rights organizations, confirmed the existence of large numbers of interrogation centres, bail applications and habeas corpus applications. The Indian security forces had introduced a system of pass laws unknown in any other part of India. Those regulations contravened Security Council resolution 47 (1948) (para. 12, part B) of 21 April 1948. Every man, woman and child was obliged to carry that pass, which had to be renewed by police or security forces. Under the pretext of monitoring the pass laws, villages were raided at night and men were separated from women. Those regulations had been used as a pretext to inflict rape and torture on the population. Moreover, the courts had no jurisdiction in the matter. In addition, there were a number of acts - the Armed Forces (Special Powers) Act, the Terrorist and Disruptive Activities (Prevention) Act and the Jammu and Kashmir Public Safety Act - which curbed legal safeguards and opened the door to human rights violations. One particularly widespread practice was that of the "revolving door", whereby the prisoner was released at the end of six months' detention only to be rearrested on leaving the prison. At the present time, Kashmir was under martial law.

26. He quoted from an article which had appeared in the 17 July issue of the United Kingdom daily, The Guardian, stating that no insurgency could last so long without widespread popular sympathy, the existence of which was denied by the Indian authorities. On 23 January 1990, a United Nations spokesperson had also confirmed the seriousness of the situation in Kashmir. The people of Kashmir had suffered four population displacements since 1947. Refugees, most of them women and children, had been forced to leave their homes. Women had been tortured and raped, often in front of their own children; all those concerned were greatly in need of humanitarian assistance. The growing presence of the Indian army disturbed regional peace and gave rise to human rights violations. A British Member of Parliament, Gary Waller, had stated on 21 July 1993 that it was hardly surprising that the number of people seeking separation from India had swelled since India had moved 500,000 men into Jammu and Kashmir and given them wide discretion to act. He referred to the report of the NGO JKCHR, which gave statistics regarding violations of

human rights between January 1992 and December 1992. That conflict had created a generation of victims and endangered peace in the region. It was an unresolved problem which the United Nations must settle.

27. The World Society of Victimology urged the Sub-Commission to dispatch a mission to Kashmir to assess the violations of human rights being committed in that region and assist the victims to obtain compensation; to send a fact-finding mission to the country to confirm or invalidate the reports of massive violations of human rights; to envisage steps to assist rape victims and their children; and to confirm the reports submitted to the Secretary-General by the United Nations military observer groups stationed in Kashmir. Lastly, it called upon the Sub-Commission to ask India to allow human rights organizations access to Kashmir. If India continued to disregard the concerns of the international community, the Sub-Commission should appoint a special rapporteur on the situation in Jammu and Kashmir.

28. Mr. RODRIGUEZ MEJIA (Andean Commission of Jurists), speaking on behalf of the Colombian Section of the Andean Commission of Jurists, said that he was deeply concerned by the scant attention which United Nations bodies paid to ways of solving the serious human rights problems in Colombia. During the first three months of 1993, an average of 12 persons had died in that country each day for reasons that were political or presumed to be so. Of the attacks committed between January 1991 and June 1992, 49 per cent could be ascribed to State officials, 33.5 per cent to paramilitary groups, 13.2 per cent to guerrilla movements and less than 1 per cent to drug traffickers. During that period, the armed forces had also been guilty of numerous violations of human rights and international humanitarian law in the framework of counter-insurgency operations. In various regions of the country, large numbers of peasants had been killed by the military, which claimed that the victims were guerrilla fighters who had died in action. Often peasants were executed by paramilitary groups operating in areas controlled by the army. The Attorney-General of the Nation had initiated an investigation into the current head of the army intelligence service, who was alleged to have organized paramilitary groups in the Chucurí area in Santander, but against whom no disciplinary action had been taken; that suggested that the Government was not really determined to eliminate those groups and carry out the recommendations made by the Special Rapporteur following his visit to the country in 1990 with respect to extrajudicial executions and the dismissal of State officials known to have participated in human rights violations.

29. The precarious human rights situation in Colombia was also explained by the persistence of the internal armed conflict. Military operations and attacks on the civilian population had increased since the suspension of the peace talks between the Government and the Simón Bolivar guerrilla coordination group. In order to protect themselves, many people had had to take refuge in other regions, and the number of displaced persons in the country was estimated at 240,000. It was therefore urgent for the United Nations to grant the request by many NGOs and make one of its bodies responsible for examining the problem of displaced persons. In addition, the Government of Colombia should be urged to ratify the 1977 Protocol additional to the four Geneva Conventions of 1949, and to seek a political solution to the armed conflict in order to put an end to the nationwide violence. That violence was exacerbated still further by the promulgation, under the state

of emergency proclaimed between November 1992 and July 1993, of decrees restricting the remedy of habeas corpus, authorizing the establishment of judicial police units in the military brigades and imposing censorship of communications. The Colombian Government had also responded by repressing the social demands generated by the increase in poverty and unemployment. Sixteen leaders of the Union of National Telecommunications Authority Workers had been sentenced to 10 to 20 years' imprisonment for terrorism. Many members and leaders of workers' and peasants' organizations had also been killed since the start of the year.

30. In its final Declaration, the World Conference on Human Rights had reaffirmed the universal character of human rights and the obligation of all States, whatever their form of government and cultural traditions, to ensure respect for the rights proclaimed in the Universal Declaration of Human Rights and the other instruments deriving therefrom. The United Nations must play a central role in the promotion and protection of human rights, and its vigilance could be of decisive importance in situations characterized by a pattern of gross and flagrant violations of human rights. The advisory services provided by the United Nations to certain countries to help them to cope with human rights-related problems were very useful, but those countries must not profit from such services without making genuine efforts to promote those rights. The evaluation of the advisory services provided to Colombia by the Centre for Human Rights had highlighted the lack of real progress in that country. The Centre had therefore recommended that the Colombian Government should carry out the decisions and resolutions of international human rights organizations; refrain from adopting special laws that might restrict fundamental human rights in periods of emergency and take severe disciplinary measures, even including dismissal, against officials accused of having seriously violated human rights, making sure that such officials were tried not by military tribunals but by civil courts; and, lastly, ensure better protection for defenders of human rights.

31. In conclusion, the Andean Commission of Jurists stressed the need for the Sub-Commission to review the way in which the case of Colombia was being examined. It should perhaps invite the Commission on Human Rights to appoint, in consultation with the Colombian Government, an expert who would be responsible both for reporting on the human rights situation in that country and for advising the Colombian authorities and social organizations in areas which, according to the Centre's evaluation report, the situation left something to be desired.

32. Mr. IBARRA (International Indian Treaty Council) drew the Sub-Commission's attention to the situation in two countries, Guatemala and Sri Lanka, which caused his organization deep concern. In Guatemala, the accession to the office of President of the Republic, on 6 June 1993, of Ramiro de Léon Carpio, who had previously occupied the post of Procurator for Human Rights, to resolve the crisis brought about by the coup d'état of 25 May directed by former President Jorge Serrano, had raised great hopes among the population. However, those hopes had been quickly dashed; repression and violations of human rights and fundamental freedoms were continuing, and grass-roots organizations, including indigenous organizations, were still waiting for the rights of all citizens to be recognized and respected. That situation resulted from the serious economic and social problems in Guatemala,

where the majority of the population lived in poverty and did not have access to health services and education, particularly in the rural areas, where the illiteracy rate was 70 per cent. The Indians were particularly disadvantaged in that regard, and they could be said to be victims of "de facto apartheid".

33. The International Indian Treaty Council noted with concern that the Government had not changed its policy, as demonstrated by the ongoing presence of civilian self-defence patrols, which committed heinous crimes against the Indian peasants and were responsible, inter alia, for the death on 3 August, in Colotennago, of three people participating in a peaceful march of peasants to present the authorities with a petition calling for the disbandment of those patrols in that commune, a march which had been put down by force. The army was also continuing to forcibly enlist Indians to participate in punitive raids against their own communities and to bombard inhabitants in villages that resisted. The organizations representing the indigenous people who constituted the majority of the population were not recognized, and their leaders often received death threats. Moreover, nothing had been done to find an effective solution to the problem of displaced persons and refugees. The International Indian Treaty Council was of the opinion that the Sub-Commission should keep the human rights situation in Guatemala under review, particularly as far as the rights of the indigenous population of that country were concerned. It therefore requested the Sub-Commission to adopt a resolution calling upon all members of the armed security forces to respect the human rights and fundamental freedoms of the entire population without any distinction and to end the practice of enforced enlistment; demanding the immediate disbandment of civilian self-defence patrols; appealing to the Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG) to resume their negotiations with a view to ending the internal armed conflict and, in particular, to sign the global agreement on human rights; calling upon the Guatemalan authorities to draw up action programmes to guarantee the indigenous population the exercise of their civil, political, economic, social and cultural rights; and insisting the Commission on Human Rights give urgent consideration to the question of human rights and fundamental freedoms in Guatemala as a matter of priority.

34. With regard to Sri Lanka, the Sub-Commission had already heard numerous accounts attesting to the events in that country, particularly in the northern region, which since 1990 had been subjected to a Government blockade with disastrous consequences for children, old people and non-combatants. The Sub-Commission should therefore adopt a resolution appealing urgently to the warring parties to declare a cease-fire, immediately begin peace talks and respect the Geneva Conventions and the Protocols thereto; requesting the Sri Lankan Government to lift the blockade on the northern part of the country; and inviting the Commission on Human Rights to consider the human rights situation in Sri Lanka as a matter of high priority at its next session.

35. Mrs. Forero-Ucros took the Chair.

36. Mr. NGUYEN VAN SON (Observer for Viet Nam) said that human rights resulted from an evolutionary process in the history of peoples and individuals. That was why they were at one and the same time universal and individual. Their comprehensive realization required an objective, balanced

and dialectic approach. It was important not to forget that the rights of every person were linked to the rights of the community, that those rights went hand in hand with duties and that civil and political rights could not be dissociated from economic and social rights. In today's world of interdependent countries, full respect for human rights could be assured only on the basis of a close combination of individualism and universality and by cooperation instead of confrontation.

37. For the Vietnamese people, human rights had always constituted a supreme value which was recognized in the Declaration of Independence of the Democratic Republic of Viet Nam, proclaimed by President Ho Chi Minh on 2 September 1945, as expressed by the words independence, freedom and happiness. After a 30-year war whose wounds had not yet fully healed, Viet Nam had had to cope with underdevelopment as well as with difficulties of various kinds imposed from outside, but it had nevertheless succeeded in overcoming those problems and achieving development, thanks to the policy of Doi Moi (renewal) adopted since 1986. That was a policy of openness and dialogue aimed at transforming a planned economy into a market economy, democratizing political, economic and social life and building a State based on the rule of law. The policy, which was supported by all Vietnamese and encouraged by all countries and peoples in the world, had already produced very good results. However, much still remained to be done and Viet Nam was in great need of sincere and objective assistance from the international community in all areas. Nevertheless, for certain foreign forces, all means were good to obstruct the building of a democratic and prosperous Viet Nam, including allegations of human rights violations in Vietnamese territory. For instance, extremist elements had fabricated a story concerning the immolation of a Buddhist by fire following the discovery of a corpse close to a pagoda on 21 May 1993 in order to engage in acts of violence and to be able to accuse the authorities of religious repression when they had taken the necessary steps to enforce the law. Moreover, opponents of the Vietnamese Government abroad who had been preparing attacks in various cities of Viet Nam were behind the outbursts of violence in several regions of South Viet Nam. Those who continued to oppose the reconstruction of Viet Nam included collaborators of the former regime living abroad who claimed to be defenders of human rights in their country but, in fact, sought only to distort the truth in order to serve their own interests. They would do better to follow the example of thousands of other Vietnamese abroad who, whatever their past and their political or religious beliefs, had already contributed actively to the reconstruction of a democratic and prosperous Viet Nam.

38. Mr. AKTAN (Observer for Turkey) noted that a new approach to problems concerning human rights seemed to be emerging within the United Nations. Instead of condemning human rights violations wherever they occurred, people were now trying to analyse their underlying causes and to create conditions enabling those violations and obstacles to the exercise of those rights to be reduced and eventually eliminated. The countries where gross violations of human rights were committed could be divided into three main groups: the first consisted of countries under foreign occupation, the second of countries under authoritarian and dictatorial regimes, and the third of countries faced with internal strife. An examination of the situation in those three groups of countries led to the conclusion that their problems were in fact due to difficulties in implementing the right of self-determination. That right

was reaffirmed in the Vienna Declaration, where it was defined as the right of peoples to "freely determine their political status, and freely pursue their economic, social and cultural development" (para. 2) and was associated with democracy, since democracy was "based on the freely expressed will of the people to determine their own political, economic, social and cultural systems" (para. 8). Consequently, "the denial of the right of self-determination" was to be considered "as a violation of human rights" and all other violations of human rights stemmed therefrom. The international community was thus called upon to strengthen and promote democracy, development and respect for human rights and fundamental freedoms throughout the world, in order to eliminate violations.

39. Foreign occupation was another major form of violation of the right of self-determination. It was therefore paradoxical that Bosnia and Herzegovina should be the victim of cruel aggression under the pretext of achieving the Serbs' right to self-determination. His delegation was grateful to the Sub-Commission for the declaration that it had adopted on Bosnia and Herzegovina. It nevertheless regretted that there had been no mention of genocide, since the Bosnian case set an example which other countries also affected by extreme nationalism might wish to imitate. Of course, it was for the International Court of Justice to decide whether what was happening in Bosnia and Herzegovina could or could not be assimilated to genocide, but pending the Court's verdict, time was passing and soon only punishment and not prevention would be possible. Yet, in that area, prevention was of the essence. His delegation therefore wondered whether the Sub-Commission might not discuss the issue and formulate an expert opinion. The World Conference itself had unanimously adopted a decision condemning the situation in Bosnia and Herzegovina as genocide. It therefore seemed abnormal for the international community not to react. The reason was that some countries thought that, however ugly and painful it might be, the situation in Bosnia and Herzegovina was closer to a war than to genocide. The Sub-Commission might therefore clarify what should be understood by the words "intent to destroy ... a ... group", as contained in the definition of genocide set forth in article II of the Convention on the Prevention and Punishment of the Crime of Genocide. In the last resort, what was genocide? Did there have to be a "reason" for the mass killing of civilians in a war in order to be able to call such action genocide? It was important to clarify that point, since in the not too distant future the world might be facing other similar wars waged mainly against civilian populations.

40. The last group of countries where violations of human rights were being committed were those facing internal armed struggle. Since the collapse of communism and the disintegration of some former communist States, the number of armed struggles of ethnic character had increased dramatically. At the present time, many countries were experiencing ethnic terrorism, a term justified by the generally terrorist character of the violence generated by such struggles. In that connection, he recalled that paragraph 2 of the Vienna Declaration, concerning the right of peoples to self-determination, and paragraph 17 of the same Declaration, concerning terrorism, had been negotiated together in the informal group of the World Conference on Human Rights. Those two paragraphs contained some very important new elements.

41. The second subparagraph of paragraph 2 authorized peoples under colonial or other forms of alien domination or foreign occupation to take "any legitimate action ... to realize their inalienable right of self-determination". Some delegations had wanted a distinction to be made between terrorism and a struggle for self-determination. His delegation, for its part, had wanted to replace the concept of "legitimate action" by that of "legitimate struggle". Unfortunately, those proposals had not been supported. The Vienna Conference had also reaffirmed the validity of the section of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations which concerned the application of the principle of self-determination in States with a democratic regime. It was easy to understand why the international community could not tolerate an interpretation of that right which would "dismember or impair ... the territorial integrity or political unity" of democratic States.

42. In paragraph 17 of the Vienna Declaration, terrorism was described as an activity "aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity ... of States and destabilizing legitimately constituted Governments". In addition, the international community, including NGOs, was called upon to "take the necessary steps ... to prevent and combat terrorism". In no circumstances did the Declaration justify terrorism by an absence of collective rights. It should not be forgotten that democracy and socio-economic development did not automatically solve problems linked to ethnic aspirations. They merely created the conditions that permitted a peaceful struggle for the promotion of the rights of ethnic minorities without destabilizing legitimately constituted Governments or threatening the territorial integrity and political unity of States. Yet it was public knowledge that certain NGOs implicitly and indirectly supported terrorism as a response to alleged Government repression or as a means for promoting the rights of ethnic minorities. Those NGOs should realize that their position on terrorism at the present time was totally devoid of legality.

43. Mr. MARAPANA (Observer for Sri Lanka) said that, for the information of members of the Sub-Commission, he would like briefly to describe the major developments that had occurred in his country since the previous session. Sri Lanka was continuing to cooperate, within the framework of an open dialogue, with the United Nations and other international organizations such as UNHCR and ICRC. It was also continuing to cooperate with various NGOs, including Amnesty International, Médecins sans frontières and Asia Watch. The provincial elections held in May 1993 demonstrated Sri Lanka's firm commitment to democracy and its accountability to its people. Investigations were being conducted to ensure that violators of human rights would be held responsible for their acts.

44. Since the forty-ninth session of the Commission on Human Rights, the Sri Lankan Government had taken a number of steps to improve the human rights situation in the country. For instance, the Emergency Regulations which had been in operation since 1989 had been revised in June 1993, with the exception of those concerning the Northern and Eastern Provinces. The amendments to the Regulations related, inter alia, to arrest procedures, detention pending investigation, and rehabilitation. Consideration was also being given to the

possibility of revising other regulations promulgated under the Public Security Ordinance. The Government was currently contemplating steps to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

45. In regard to disappearances, he wished to mention that, during the first six months of 1993, there had been only one allegation of disappearance for the south of the country and 18 for the eastern region, where the difficult situation prevailing made it hard to conduct investigations. In October 1992, the Working Group on Enforced or Involuntary Disappearances and Amnesty International had visited Sri Lanka at the invitation of the Sri Lankan Government and had formulated a number of recommendations concerning most of which, he was pleased to announce, the Government had already initiated implementation action. In addition, steps were under way to introduce constitutional reforms which would, inter alia, strengthen the existing constitutional guarantees regarding fundamental rights.

46. With regard to the present situation, while investigations were continuing, all evidence seemed to point to the involvement of the Liberation Tigers of Tamil Eelam (LTTE) in the assassination of President Ranasinghe Premadasa. That criminal act, and other atrocities committed by the LTTE, showed to what point terrorism continued to threaten the country with destabilization and the destruction of its democratic institutions. However, the events that had followed the President's assassination had demonstrated the maturity and courage of the population. The Government had also taken steps to ensure the maintenance of law and order and to avoid reprisals. The provincial elections which had taken place soon after the assassination of the President, monitored by independent international observers, had confirmed the progress of democracy in the island.

47. At a time when the Security Council and other United Nations bodies were reaffirming that the practice of ethnic cleansing and the partitioning of independent sovereign States on ethnic and religious grounds were unacceptable, he wished to report on the conduct of the LTTE in the separatist war that it had unleashed. The LTTE did not hesitate to slaughter innocent civilians, both from the Sinhalese and the Muslim communities. It had rejected the mediation efforts of UNHCR to open a safe passage for civilians and the transport of essential goods for the people of the Jaffna peninsula. It had also refused ICRC access to the 4,000 Tamils whom it was illegally detaining, and was obstinately refusing to take part in negotiations with the Sri Lankan Government. The Government, for its part, had initiated a dialogue with moderate and democratic Tamil political parties with a view to negotiating a solution acceptable to all concerned. It continued to hope, nevertheless, that the LTTE would ultimately join those negotiations.

48. Freedom of the press and other media had also improved significantly in recent months. Moreover, the release and rehabilitation of persons detained for subversive activities were continuing. The return to normality in Sri Lanka was also confirmed by the return of some 35,000 Sri Lankan refugees from India. A Select Committee of Parliament composed of representatives of all political parties in Parliament had been examining ways of achieving a just and lasting solution to the ethnic question which would satisfy the legitimate aspirations of all communities in the country. The Government had

stated that it would implement the Committee's recommendations. One of the proposals currently under discussion concerned the holding of a referendum in the Eastern Province which would determine whether the Province should have a Provincial Council of its own or whether it should continue to be joined to the Northern Province. Conditions on the ground seemed to indicate that a referendum could be held in the course of the year. In that case, it would be subject to monitoring by international observers.

49. Mr. KARIM (Observer for Bangladesh), replying to two earlier statements concerning the situation in the Chittagong Hill Districts of Bangladesh, said that the representatives of Survival International and Anti-Slavery International had tried once again to mislead international opinion. Mr. Sanders, speaking on behalf of Anti-Slavery International, had referred to a transmigration project in the Chittagong Hill Districts. However, only half a million people lived in that region, which occupied some 10 per cent of the country's surface area. Had there been such a project, the region would now have at least 11 million inhabitants. Mr. Sanders had also referred to an "aggressive programme of cultural assimilation". However, the only organized cultural activities in the area were the work of Christian missionaries seeking to convert the inhabitants. His delegation trusted that the representative of Anti-Slavery International was not alluding to those activities.

50. He considered that Mr. Sanders' credibility was in question. Mr. Sanders had spoken on behalf of Anti-Slavery International, when his name did not appear in the list of participants as being a representative of that NGO. On the other hand, he was listed under three other NGOs: Human Rights Advocates, Survival for Tribal Peoples and the International Lesbian and Gay Association.

51. With regard to the second statement concerning the Chittagong Hill Districts, he wished to emphasize that the NGO Survival International did not appear in the list of participants and that the person who had spoken on its behalf had styled herself "Jumma", an appellation rejected by other tribal groups in Bangladesh. Lastly, he stressed that his Government, like every other democratic and responsible Government, regarded it as its duty to protect its citizens from terrorist atrocities. Mr. Eide himself had recently reminded the Sub-Commission of the potential dangers of ethnic tribalism and the consequences it could have for nation States. Bangladesh sincerely hoped that the efforts being made by those cynical individuals to frustrate the negotiations currently under way between the Bangladeshi Government and the tribes would not succeed.

52. Mr. ALFONSO MARTINEZ said that, since 30 July 1994, he had been in possession of some disturbing information which, 12 days later and given the deterioration in the situation, he wished to impart to the members of the Sub-Commission. In the United States there was a movement of solidarity with the Cuban people. In order to combat the effects of the economic blockade imposed on Cuba, an association, coordinated by a religious movement, had set itself the aim of providing food, medicine and various types of transport equipment to the Cuban people. For the second time, that association had organized a convoy intended for Cuban religious organizations. As the Sub-Commission experts would be aware, it was not possible to travel directly from the United States to Cuba, the only way being to pass through a third

country. On their arrival at the Mexican border, the persons accompanying the convoy in question had been forbidden by United States customs officers to take through a school bus, under the pretext that the bus could be used for military purposes. The 13 organizers of the convoy had then gone on hunger strike, and the situation had not changed for the past 12 days. Consequently, those persons were unable to exercise their right to travel to Cuba, and their very right to life was jeopardized since they were now in their twelfth day of hunger strike. He also wished to mention that protest demonstrations concerning that affair had been held in various United States cities. He did not intend to propose that the Sub-Commission should take steps at the current stage, but reserved the right to make a further statement on the subject during the session, should the situation worsen.

53. Mr. SACHAR said that, in his view, the situation was sufficiently serious for the Sub-Commission to take immediate action and possibly request explanations from the authorities concerned. Similar situations had occurred in Canada and India, and on those occasions the Sub-Commission had interceded to avoid a tragedy.

54. Mr. ALFONSO MARTINEZ said that it was for the members of the Sub-Commission to decide whether they wished to take action. Should they do so, he would support any initiative in that direction.

55. The CHAIRMAN asked Mr. Alfonso Martínez to keep the Sub-Commission informed of any further developments in that affair during the session.

TRIBUTE TO THE MEMORY OF MRS. BAUTISTA

56. Mr. GUISSE inquired about the accuracy of the report, which had reached him indirectly, that Mrs. Bautista had died.

57. Mr. ALFONSO MARTINEZ said he regretted to have to confirm that report. As Chairman of the forty-fourth session of the Sub-Commission, he should have announced the news to the members at the opening meeting of the forty-fifth session. He asked them to forgive that oversight, adding that it was not too late for the Sub-Commission to present its condolences to Mrs. Bautista's family.

58. The CHAIRMAN paid a tribute to the memory of Mrs. Bautista, who had been a distinguished member of the Sub-Commission for a number of years, and said that the Secretariat would convey the Sub-Commission's condolences to her family.

The meeting rose at 5.45 p.m.